

**REMARKS****Status of the Claims**

Claims 1-14 have been canceled without prejudice or disclaimer of the subject matter claimed therein. New claims 15-38 replace claims 1-14. Representative support for the new claims is summarized in the table below. New claims 15-38 do not introduce prohibited new matter.

Claim(s)	Representative Support
15	Original claim 3 and Page 4, lines 23 and 24
16	Original claim 4
17	Page 3, line 31
18	Page 3, line 19
19, 20	Page 7, lines 20 and 21
21	Original claim 8
22	Original claim 5
23	Page 3, lines 19-21
24	Page 11, line 14
25	Page 11, line 13
26	Original claim 6
27	Page 5, lines 1-6
28	Original claim 1
29	Original claim 7
30	Page 5, lines 7-9
31, 32	Original claim 9
33, 34	Original claim 2
35	Page 5, lines 21 and 22
36	Page 8, lines 1-5
37, 38	Page 8, line 33 to Page 9, line 2

Response to the Restriction Requirement

In response to the Restriction Requirement in the Office Action, dated July 28, 2006, Applicants hereby elect with traverse, the invention of Group II, claims 3-5, 8, and 14, drawn to a probe that binds Y1214 of the KDR/Flk-1 receptor, the probe is an antibody, a kit comprising the antibody and a method of making the antibody. Claims 3-5, 8, and 14 have been canceled without prejudice or disclaimer of the subject matter claimed therein. New claims 15-25, drawn to the same invention as claims 3-5, 8, and 14, are directed to the elected invention.

The traversal is on the grounds that claims 26-38, directed to methods of using the probe of Group II, should be examined with the invention of Group II (claims 15-26) because they are so linked as to form a single inventive concept. The special technical feature of claims 15-26 is the probe that binds tyrosine residue of Y1214 of the KDR/flk-1 receptor. The special technical feature of claims 26-38 is also the probe, since claims 26-38 are directed to methods of using the probe. Thus, since claims 15-38 have the same or corresponding special technical feature, they have unity of invention and should be examined together.

Moreover, Applicants submit that a national stage application containing claims to different categories of invention should be considered to have unity of invention if the claims are drawn to a product, a process for manufacturing the product, and a method of using the product (see 37 CFR § 1.475(b)(3)). Thus, claims 15-25, directed to the probe (product), and claims 26-38, directed to methods of using the probe, have unity of invention should be examined together.

The Office Action cites Takahashi *et al.* and Wood *et al.* as anticipating the claims and for supporting their position that the claims lack the same or corresponding special technical feature. However, the claims as they stand are directed to a probe that binds tyrosine residue Y1214 of the KDR/flk-1 receptor for detecting activation of the receptor, a method of making the probe, kits comprising the probe, and methods of using the probe. Takahashi *et al.* teach that the Y1214 epitope is not associated with the activation of the KDR/flk-1 receptor, and Wood *et al.* disclose an inhibitor of the KDR/flk-1 receptor that is not encompassed by the claims. Thus, the cited references do not anticipate or render obvious the claims as they stand. Accordingly, the claims are linked so as form a single general inventive concept.

Further, Applicants point out that once a product claim is found allowable, withdrawn method claims which depend from or otherwise include all the limitations of the allowable

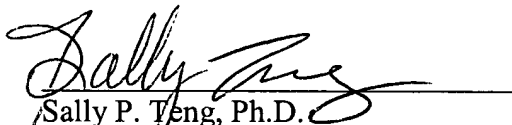
product claim must be rejoined (see MPEP 821.04). Thus, even if the Patent Office does not group and examine claims 26-38 with claims 15-25, Applicants respectfully submit that once a claim directed to the probe is found allowable, withdrawn method claims (claims 26-38) which depend from or otherwise include all the limitations of the claim directed to the probe must be rejoined.

### Conclusion

If there are any additional fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. §1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,  
**Morgan, Lewis & Bockius LLP**

Date: September 27, 2006  
Morgan, Lewis & Bockius LLP  
Customer No. 09629  
1111 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Tel: 202-739-3000  
Fax: 202-739-3001

  
Sally P. Teng, Ph.D.  
Registration No. 45,397